

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Apr 03, 2024**

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSHUA DAVID HARDING,

Defendant.

No. 1:24-CR-02014-MKD

ORDER GRANTING STIPULATION  
REGARDING COMPUTER  
FORENSIC REVIEW PROCEDURES  
FOR CHILD PORNOGRAPHY  
CONTRABAND

**ECF No. 23**

Before the Court is the parties' Stipulation Regarding Computer Forensic Review Procedures for Child Pornography Contraband. ECF No. 23. Given the nature of the allegations in this case, the parties move to impose forensic review procedures pursuant to 18 U.S.C. § 3509(m). The Court has reviewed the record and the motion, including the parties' stipulations therein, and finds good cause to grant the motion.

Accordingly, **IT IS HEREBY ORDERED:**

**1.** The parties' Stipulated Motion Regarding Computer Forensic Review Procedures for Sexually Explicit Contraband, **ECF No. 23**, is **GRANTED**.

1           **2.**     18 U.S.C. § 3509(m) applies to this case, and the Court is required to  
2 deny defense requests to copy, photograph, duplicate, or otherwise reproduce  
3 material constituting child pornography if the government makes the material  
4 reasonably available to Defendant and provides an ample opportunity for the  
5 defense to examine it at a government facility. *See* 18 U.S.C. § 3509(m).

6           **3.**     In order to comply with 18 U.S.C. § 3509(m), and to allow Defendant  
7 the greatest opportunity to prepare an effective defense in preparation for trial in  
8 this matter, the government will make a forensic copy or “image” of devices and  
9 media containing alleged child pornography contraband at issue in the above-  
10 referenced case. The government will make full forensic images reasonably  
11 available to Defendant and provide ample opportunity for the defense team to  
12 examine them at a government facility in Spokane, Washington (in this case the  
13 office of Homeland Security Investigation (“HIS”)). The United States will also  
14 work with counsel for Defendant to make reasonably available a working copy of  
15 contraband material at the offices of Homeland Security Investigations in  
16 Richland, Washington if strictly necessary. The parties may readdress the Court if  
17 there is a need for additional or afterhours access during the course of litigation in  
18 the event trial or motion hearings require additional forensic review.

19           **4.**     The defense forensic examination of the full forensic images in  
20 Spokane may be conducted in an interview room monitored by closed-circuit

1 television (“CC-TV”), without audio feed. If so, the TV with non-audio feed will  
2 ensure the integrity of government agency space and security of its occupants, and  
3 will not be of sufficient detail or at an angle that would reveal defense strategy.  
4 The government and its agents will make no attempt to record any audio from the  
5 workstation and no attempt to observe the defense team’s work product or  
6 computer monitor screen at any time. The defense expert may review the feed to  
7 ensure that defense strategy is not being compromised at any time while  
8 conducting the forensic review.

9       **5.**     The defense team<sup>1</sup> shall not make, nor permit to be made, any copies  
10 of the alleged child pornography contraband pursuant to this Protective Order, nor  
11 will they remove any contraband images from the government facility. The  
12 defense expert will be allowed to copy any file that is not contraband and compile  
13 a report (without contraband images/videos) documenting the examination on  
14 removable media at the discretion of the defense expert.

15       **6.**     Any defense counsel and/or designated defense expert will leave at  
16 the government facility any equipment, including hard drives, which contain child  
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18 <sup>1</sup> For purposes of this Protective Order, the term “defense team” refers solely to the  
19 Defendant’s counsel of record (“defense counsel”), the Defendant’s designated  
20 expert (“defense expert”), and a defense investigator.

1 pornography contraband that is identified during forensic evaluation.

2       7. For the purpose of trial, the government will make available a digital  
3 copy of any government trial exhibit that contains contraband, which will be kept  
4 in the custody and control of the case agent. Upon reasonable notice by the  
5 defense, the case agent will also maintain for trial digital copies of any proposed  
6 defense exhibit that contains contraband. If the defense team intends to offer,  
7 publish, or otherwise utilize any government or defense exhibit contained on the  
8 digital copy maintained by the case agent during trial, the case agent shall assist the  
9 defense team in publishing or utilizing the exhibit that contains contraband upon  
10 reasonable notification by the defense team.

11       8. This order shall apply to any attorneys who subsequently become  
12 counsel of record, along with their defense teams, without the need to renew or  
13 alter the order.

14       **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order  
15 and provide copies to all counsel.

16       **DATED** April 3, 2024.

17                               s/Mary K. Dimke  
18                               MARY K. DIMKE  
19                               UNITED STATES DISTRICT JUDGE  
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